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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/764,538	01/27/2004	Kazunari Oyama	02910.000110.	9614
5514	7590	04/05/2006		
FITZPATRICK CELLA HARPER & SCINTO 30 ROCKEFELLER PLAZA NEW YORK, NY 10112			EXAMINER CHANG, KENT WU	
			ART UNIT	PAPER NUMBER
			2629	

DATE MAILED: 04/05/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	Application No. 10/764,538	Applicant(s) OYAMA ET AL.	
	Examiner Kent Chang	Art Unit 2629	

**-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --**

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

1) ☒ Responsive to communication(s) filed on 1/18/06.

2a) ☒ This action is **FINAL**.                      2b) ☐ This action is non-final.

3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

4) ☒ Claim(s) 5,6 and 10-26 is/are pending in the application.

4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.

5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.

6) ☒ Claim(s) 5,6 and 10-26 is/are rejected.

7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.

8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

9) ☐ The specification is objected to by the Examiner.

10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
     Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
     Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a) ☒ All    b) ☐ Some \*    c) ☐ None of:

1. ☒ Certified copies of the priority documents have been received.

2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.

3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

1) ☐ Notice of References Cited (PTO-892)

2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)

3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
     Paper No(s)/Mail Date 11/21/05; 12/20/05.

4) ☐ Interview Summary (PTO-413)  
     Paper No(s)/Mail Date. \_\_\_\_\_.

5) ☐ Notice of Informal Patent Application (PTO-152)

6) ☐ Other: \_\_\_\_\_.

## DETAILED ACTION

### ***Information Disclosure Statement***

1. The references listed in the Information Disclosure Statement submitted 11/21/05 and 12/20/05 have been considered by the examiner (see attached PTO-1449).

### ***Claim Rejections - 35 USC § 103***

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

3. The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

4. This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was

not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

5. Claims 5, 6, and 10-26 are rejected under 35 U.S.C. 103(a) as being unpatentable over Kitamura et al (US2002/0031972) or Dean et al (US Patent No. 6,645,028).

Kitamura teaches a method of driving and the manufacturing method of an electron-emitting devices formed on a substrate, in each of which an electron-emitting member including a plurality of carbon fibers is capable of emitting electrons when a driving voltage is applied between a cathode electrode on which the electron-emitting member is formed and a counter electrode disposed in opposition to the cathode electrode. Dean teaches a method of driving and the manufacturing method of an electron-emitting devices formed on a substrate, in each of which an electron-emitting member including a plurality of carbon fibers is capable of emitting electrons when a driving voltage is applied between a cathode electrode on which the electron-emitting member is formed and a counter electrode disposed in opposition to the cathode electrode. Both devices of Kitamura and Dean include a voltage operating range having a maximum applied voltage level and a minimum applied voltage level within which the display device can be driven (such as the highest and lowest applied voltage as shown in Figures 13 and 14 in the reference of Kitamura, or the highest and lowest applied voltage as shown in Figure 1 in the reference of Dean). It would have been obvious for one ordinary skill in the art at the time of the invention to use any voltage within the

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operating range including the maximum applied voltage to drive the display since any voltage within that range performs equally well in generating an image. It would also have been obvious for one ordinary skill in the art at the time of the invention to test the device with the maximum applied voltage and minimum applied voltage such as during manufacturing time or any time the use wants to examine the functionality of the device. In other words, it would have been obvious for one ordinary skill in the art at the time of the invention to apply a voltage across a voltage level above which an absolute value of an inclination in F-N plots of an electron-emitting characteristic of the electron-emitting member decreases and therefore would reduce a difference of (i) an electron-emitting characteristic of a second electron-emitting member being operative to emit a relatively greater number of electrons when a predetermined voltage is applied between a second cathode electrode having the second electron-emitting member in the cathode electrodes and the counter electrode and (ii) the electron-emitting characteristic of the first electron-emitting member being operative to emit a relative lesser number of electrons when the predetermined voltage is applied between the first cathode electrode and the counter electrode since such a voltage level is within the operating range and applying the maximum voltage would cause the reduction of the difference as stated above. The fact that a high voltage would cause the reduction of the difference as stated above is the inherent property of a FED, as admitted by applicant in the specification. Furthermore, the electron-emitting device of Kitamura includes a plurality of carbon fibers selected from among a plurality of carbon nanotubes, a plurality of graphite nanofibers and a mixed plurality of carbon nanotubes and graphite nanofibers

(Paragraph 0041) and the electron-emitting device of Dean includes a plurality of carbon fibers selected from among a plurality of carbon nanotubes, a plurality of graphite nanofibers and a mixed plurality of carbon nanotubes and graphite nanofibers (see column 2 lines 15-22).

### ***Response to Arguments***

6. Applicant's arguments with respect to claims 5, 6, and 10-26 have been considered but are moot in view of the new ground(s) of rejection.

### ***Conclusion***

7. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the date of this final action.

### **CONTACT INFORMATION**

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Kent Chang whose telephone number is 571-272-7667. The examiner can normally be reached on Monday to Thursday from 9:00 AM to 6:00 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Sumati Lefkowitz, can be reached at 571-272-3638.

**Any response to this action should be mailed to:**

Commissioner of Patents and Trademarks  
Washington, D.C. 20231

**or faxed to:**

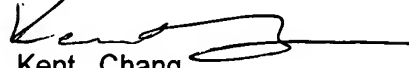
**571-273-8300**

Hand-delivered responses should be brought to the Customer Service Window, now located at the Randolph Building, 401 Dulany Street, Alexandria, VA 22314.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should

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you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Kent Chang  
Primary Examiner  
Art Unit 2629

kc

4/1/06